



ITJ

Appl. No. : 10/587,891

Confirmation No. 2353

Applicant : Philippe COURTY. Inventor

Filed : July 31, 2006

TC/A.U. :

Examiner : Bret C. HAYES

Art Unit: 3641

Customer No. :

Director of Commissioner for Patents P.O. Box 1450 Alexandria VA 22313-1450

REQUEST FOR CONTINUED EXAMINATION

Paris, 18 March 2009

RECOMMENDED MAIL

Sir,

The Office action of 02/17/2009, stated the rejection of my application for failure to timely file a proper reply to the Office letter of 12 June 2008, because the three-month statutory period for response expired on 09/12/08 and a one-month extension of time fee was required in order to enter the proposed amendment of 10/01/08.

I would like to emphasize the fact that an answer had effectively been sent on 09/24/08 and received by the Office on 10/01/08, but this answer was given to a second office action mailed on 09/02/08, that is to say **10 days prior the end of the same statutory period**.

This action let me, in respect to the supposed Office coherence of action, understand that I would still be on time to answer and normally benefit from my remaining time, according to the logical understanding that the time taken by the Office to answer would not be discounted from my total 3 month statutory period.

Shouldn't it be Office responsibility to put an action without checking proper remaining time for applicant to answer?

As a matter of fact, you will first notice that, due to the recommended mails sent out to the Office from France, it takes roughly 8 to 10 days to travel (my mail dated 09/24/08 was received 10/01/08) as it takes to travel from USA to France, therefore the mail sent out by the office to me on 09/02/08 could not arrive to France prior the 09/10/08 (registered here on the 12th), **leaving me absolutely no time to reply**.

Secondly, since no time limitation is clearly stated on form PTOL-303, (particularly when stating that: *"in no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection"*) **how should it be understood that a government Office ask seriously for an answer without leaving decent time for answering ?**

You will also notice that the 09/02/08 Office action has been initiated (from 07/28/08 to 09/02/08) **more than a month after my reply to its first action**. Therefore **shouldn't this time delay be taken into account for my total time credit**, since then: **the more the Office gets late in answering the more fees he will be entitled to request?**

Even more, if the statutory period for response starts from the mailing date from the Office, shouldn't it be fair **that it be the same for the applicant**, that is to say that an applicant response be considered **from the mailing date** instead of the reception date?

In my personal case two mails from the USA to France and theirs answers require 10 days x 4 = 40 days, **more than 1/3 of the total delay!**

Two factors work obviously against a foreigner applicant: postal and Office's reply delays.

Would you then, sir, please be kind enough to review this time distribution and make sure that, according to patent rules, either the Office or me couldn't make it **in so short a frame time** and therefore, reinstall my application into the examination state?

Regards,

Signed: Philippe Courty

A handwritten signature in black ink, consisting of a stylized 'P' followed by a long, sweeping horizontal stroke that ends in a small upward flick.